

SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: July 10, 2006

DEPT. 71

REPORTER A:

CSR#

PRESENT HON. RONALD S. PRAGER

REPORTER B:

CSR#

JUDGE

CLERK: K. Sandoval

BAILIFF:

REPORTER'S ADDRESS: P.O. BOX 120128

SAN DIEGO, CA 92112-4104

TENTATIVE RULING

IN RE: JCCP 4221/4224/4226&4428 – Natural Gas Anti-Trust Cases (Price Indexing)

The attached Court's ruling regarding **ZANABONI MOTION TO QUASH SERVICE OF SUMMONS** applies to all cases listed as follows

4221-00020	UYEDA vs CENTERPOINT ENERGY INC
4221-00021	BENSCHIEDT vs AEP ENERGY SERVICES INC
4221-00022	COUNTY OF SANTA CLARA vs SEMPRA ENERGY
4221-00023	CITY AND COUNTY OF SAN FRANCISCO vs SEMPRA ENERGY
4221-00024	COUNTY OF SAN DIEGO vs SEMPRA ENERGY
4221-00025	OLDER vs SEMPRA ENERGY
4221-00026	CITY OF SAN DIEGO vs SEMPRA ENERGY
4221-00027	TAMCO vs DYNEGY INC
4221-00028	A L GILBERT COMPANY vs CORAL ENERGY RESOURCES LP
4221-00029	OBERTI WHOLESALE FOOD INC vs ENCANA ENERGY SERVICES INC
4221-00030	BROWN vs ENCANA ENERGY SERVICES INC
4221-00031	LOIS THE PIE QUEEN vs ENCANA ENERGY SERVICES INC
4221-00032	VITTICE CORPORATION vs ENCANA CORPORATION
4221-00033	COUNTY OF ALAMEDA vs SEMPRA ENERGY
4221-00034	THE REGENTS OF THE UNIVERSITY OF CALIFORNIA vs RELIANT ENERGY SERVICES INC
4221-00035	SCHOOL PROJECT FOR UTILITY RATE REDUCTION vs SEMPRA ENERGY
4221-00036	ASSOCIATION OF BAY AREA GOVERNMENTS vs SEMPRA ENERGY
4221-00037	OWENS-BROCKWAY GLASS CONTAINER INC vs SEMPRA ENERGY
4221-00038	TEAM DESIGN DBA TIMOTHY ENGELN INC vs RELIANT ENERGY INC
4221-00039	CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER vs RELIANT ENERGY SERVICES INC
4221-00040	SACRAMENTO MUNICIPAL UTILITY DISTRICT vs RELIANT ENERGY SERVICES INC
4221-00041	SHANGHAI 1930 RESTAURANT PARTNERS LP vs ENCANA ENERGY SERVICES INC
4221-00042	PODESTA vs ENCANA ENERGY SERVICES INC

4221-00043 NURSERYMAN'S EXCHANGE OF HALF MOON BAY vs SEMPRA ENERGY
4221-00044 COUNTY OF SAN MATEO vs SEMPRA ENERGY
4221-00045 BUSTAMANTE vs WILLIAMS ENERGY SERVICES
4221-00046 PABCO BUILDING PRODUCTS vs DYNEGY INC
4221-00047 BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY vs DYNEGY INC

The General Demurrer of individual Defendant Kathleen Zanaboni as to Plaintiffs' Cartwright Act claims is **OVERRULED**. The Court finds the complaints state sufficient facts to constitute the claims asserted therein against Defendant Zanaboni.

"In any indictment, information or complaint for any offense named in this chapter, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with, or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created." (Business and Professions Code section 16756)

The Court finds *Cellular Plus, Inc. v Superior Court* (1993) 14 Cal.App.4th 1224, amplifies the holding in *Chicago Title Ins. Co. v. Great Western Financial Corp.* (1968) 69 Cal. 2d 305, and the two cases are not irreconcilable. Based on the holdings of *Chicago Title* and *Cellular Plus* the Court finds the allegations of the complaints, as to the defendants generally and Zanaboni specifically, when taken as a whole are capable of an interpretation which exhibit facts constituting a conspiracy, the pursuit of its objective, and the ultimate restraint on trade. (*Cellular Plus, supra* at 1224) Further, the allegations adequately alert Zanaboni to the fact that her alleged trading activity assisted in facilitating the scheme.

Accordingly, the Court overrules Defendant Zanaboni's demurrer and directs Defendant to Answer the Complaint within 15 days of this ruling.